

AN ACT

relating to the effect of certain felony convictions of public elected officers.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 810, Government Code, is amended by adding Section 810.002 to read as follows:

Sec. 810.002. CERTAIN ELECTED OFFICIALS INELIGIBLE FOR RETIREMENT ANNUITY. (a) In this section:

(1) "Governing body of a public retirement system" and "public retirement system" have the meanings assigned by Section 802.001.

(2) "Qualifying felony" means any felony involving:

- (A) bribery;
- (B) the embezzlement, extortion, or other theft of public money;
- (C) perjury;
- (D) coercion of public servant or voter;
- (E) tampering with governmental record;
- (F) misuse of official information;
- (G) conspiracy or the attempt to commit any of the offenses described by Paragraphs (A)-(F); or
- (H) abuse of official capacity.

(b) This section applies only to a person who is:

(1) a member of the elected class of the Employees

1 Retirement System of Texas as described by Section 812.002(a)(1) or
2 (2); or

3 (2) otherwise eligible for membership in a public
4 retirement system wholly or partly because the person was elected
5 or appointed to an elected office.

6 (c) Except as provided by Subsection (d), a member of a
7 public retirement system is not eligible to receive a service
8 retirement annuity under the retirement system if the member is
9 convicted of a qualifying felony committed while in office and
10 arising directly from the official duties of that elected office.

11 (d) The retirement system, on receipt of notice of a
12 conviction under Subsection (e) or (k), any similar notice of a
13 conviction of a qualifying felony from a United States district
14 court or United States attorney, or any other information that the
15 retirement system determines by rule is sufficient to establish a
16 conviction of a qualifying felony, shall suspend payments of a
17 service retirement annuity to a person the system determines is
18 ineligible to receive the annuity under Subsection (c). A person
19 whose conviction is overturned on appeal or who meets the
20 requirements for innocence under Section 103.001(a)(2), Civil
21 Practice and Remedies Code:

22 (1) is entitled to receive an amount equal to the
23 accrued total of payments and interest earned on the payments
24 withheld during the suspension period; and

25 (2) may resume receipt of annuity payments on payment
26 to the retirement system of an amount equal to the contributions
27 refunded to the person under Subsection (f).

1 (e) Not later than the 30th day after the conviction of a
2 person of a qualifying felony, the governmental entity to which the
3 person was elected or appointed must provide written notice of the
4 conviction to the public retirement system in which the person is
5 enrolled. The notice must comply with the administrative rules
6 adopted by the public retirement system under Subsection (j).

7 (f) A member who is ineligible to receive a service
8 retirement annuity under Subsection (c) is entitled to a refund of
9 the member's service retirement annuity contributions, including
10 interest earned on those contributions. A refund under this
11 subsection is subject to an award of all or part of the member's
12 service retirement annuity contributions to a former spouse,
13 including as a just and right division of the contributions on
14 divorce, payment of child support, or payment of spousal
15 maintenance or contractual alimony or other order of a court.

16 (g) Benefits payable to an alternate payee under Chapter 804
17 who is recognized by a qualified domestic relations order
18 established before the effective date of this subsection are not
19 affected by a member's ineligibility to receive a service
20 retirement annuity under Subsection (c).

21 (h) On conviction of a member for a qualifying felony:

22 (1) a court may, in the same manner as in a divorce or
23 annulment proceeding, make a just and right division of the
24 member's service retirement annuity by awarding to the member's
25 spouse all or part of the community property interest in the annuity
26 forfeited by the member; and

27 (2) a court shall, if the member's service retirement

1 annuity was partitioned or exchanged by written agreement of the
2 spouses as provided by Subchapter B, Chapter 4, Family Code, before
3 the member's commission of the offense, award the annuity forfeited
4 by the member to the member's spouse as provided in the agreement.

5 (i) Ineligibility for a service retirement annuity under
6 this section does not impair a person's right to any other
7 retirement benefit for which the person is eligible.

8 (j) The governing body of a public retirement system shall
9 adopt rules and procedures to implement this section.

10 (k) A court shall notify the retirement system of the terms
11 of a conviction of a person convicted of an offense described by
12 Subsection (c).

13 (l) Notwithstanding any other provision of this section, if
14 the spouse of a member convicted of a qualifying felony is convicted
15 of the felony as a party to the offense as defined by Section 7.01,
16 Penal Code, or of another qualifying offense arising out of the same
17 criminal episode as defined by Section 3.01, Penal Code, the spouse
18 forfeits the member's service retirement annuity and service
19 retirement contributions to the same extent as the member.

20 SECTION 2. Chapter 601, Government Code, is amended by
21 adding Section 601.011 to read as follows:

22 Sec. 601.011. VACANCY ON FINAL FELONY CONVICTION OF MEMBER
23 OF LEGISLATURE, GOVERNOR, OR STATE ELECTED OFFICIAL. A member of
24 the legislature, the governor, or a state elected official
25 convicted of a felony vacates the member's, governor's, or
26 official's office on the date the conviction becomes final.

27 SECTION 3. Article 42.01, Code of Criminal Procedure, is

1 amended by adding Section 12 to read as follows:

2 Sec. 12. In addition to the information described by
3 Section 1, the judgment should reflect affirmative findings entered
4 pursuant to Article 42.0196.

5 SECTION 4. Chapter 42, Code of Criminal Procedure, is
6 amended by adding Article 42.0196 to read as follows:

7 Art. 42.0196. FINDING REGARDING OFFENSE RELATED TO
8 PERFORMANCE OF PUBLIC SERVICE. (a) In the trial of an offense
9 described by Section 810.002, Government Code, the judge shall make
10 an affirmative finding of fact and enter the affirmative finding in
11 the judgment in the case if the judge determines that the defendant
12 is:

13 (1) a member of the elected class described by Section
14 810.002(b)(1), Government Code, while a member of the Employees
15 Retirement System of Texas; or

16 (2) a holder of an elected office for which the
17 defendant wholly or partly became eligible for membership in a
18 public retirement system.

19 (b) A judge who makes the affirmative finding described by
20 this article shall make the determination and provide the notice
21 required by Section 810.002(k), Government Code.

22 SECTION 5. Section 810.002, Government Code, as added by
23 this Act, applies only to a member of a public retirement system who
24 holds or has held elected office and, on or after the effective date
25 of this Act, commits an offense that is a qualifying felony as
26 defined by that section. A person who commits a qualifying felony
27 before the effective date of this Act is subject to the law in

1 effect on the date the offense was committed, and the former law is
2 continued in effect for that purpose. For purposes of this section,
3 an offense was committed before the effective date of this Act if
4 any element of the offense occurred before that date.

5 SECTION 6. This Act takes effect immediately if it receives
6 a vote of two-thirds of all the members elected to each house, as
7 provided by Section 39, Article III, Texas Constitution. If this
8 Act does not receive the vote necessary for immediate effect, this
9 Act takes effect September 1, 2017.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 500 passed the Senate on February 8, 2017, by the following vote: Yeas 30, Nays 0; and that the Senate concurred in House amendments on May 22, 2017, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 500 passed the House, with amendments, on May 15, 2017, by the following vote: Yeas 141, Nays 0, one present not voting.

Chief Clerk of the House

Approved:

Date

Governor